

## **REMARKS**

### **I. INTRODUCTION**

Claims 3 and 4 were previously cancelled. Claims 5, 9, and 11-13 have been amended to more particularly point out and distinctly claim that which is the subject matter of the invention. No new matter has been added. Thus, claims 1-2 and 5-19 are pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

## **II. THE 35 U.S.C. § 112 REJECTION SHOULD BE WITHDRAWN**

The Examiner has rejected claims 5, 11, 12 and 13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claims 5, 11, 12 and 13 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Specifically, claim 5 now states that the transaction is conducted “by one of a consumer and a shopping service.” The language of claim 5 is supported in the specification at pages 11-12 in the section labeled “Product Ordering.” Claim 11 has been amended to clarify the subject matter by replacing “juxtaposing” with “appending” and further defining the creation of an electronic record of selected goods. Claims 12 and 13 have been amended to provide antecedent basis for the limitations contained therein. Therefore, Applicant respectfully requests that the § 112, second paragraph, rejections of claims 5, 11, 12 and 13 be withdrawn.

## **III. THE 35 U.S.C. § 102(a) REJECTIONS SHOULD BE WITHDRAWN**

The Examiner has rejected claims 16 and 17 under 35 U.S.C. § 102(a) as anticipated by the website [www.receiptcity.com](http://www.receiptcity.com) as taught by the articles “Tech Trends” (May 2000, Progressive Grocer) and “ReceiptCity Teams with Verifone to Bring Retailers Receipt-based e-Services (April 24, 2000, Business Wire). (See 5/24/04 Office Action, page 5).

The publications cited as references by the Examiner are sworn behind with the enclosed declaration executed in accordance with 37 CFR 1.131. According to the Manual of Patent Examining Procedures (MPEP) 715.09, an applicant’s declaration under 37 CFR 1.131 is seasonable if submitted “prior to a final rejection.” As such, the cited publications can no longer be used as references against the claimed invention. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 16 and 17, as they are in condition for allowance.

The Examiner has rejected claims 9 and 10 under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 6,490,602 to Kraemer (“the Kraemer patent”). (See 5/24/04 Office Action, page 6).

The Kraemer patent describes a method for providing a unified toolbar across product webpages of multiple, independent retailers. (See the Kraemer patent, Abstract). A purchase request by a user is made via a toolbar which is inserted into a source code of the webpage. (See the Kraemer patent, col. 3, lines 64-67). An enhanced functionality server fills out purchase forms (i.e., name, credit card, shipping address, etc.) after the user has indicated that he wishes to purchase a product by using the “purchase this product” service on the toolbar. (See the Kraemer patent, col. 3, lines 12-22).

Claim 9, as amended, recites a method for purchasing goods and services from multiple merchants which includes “selecting the first and second goods for purchase on respective first and second websites” and “*paying for the first and second goods through the second website with one transaction from a consumer perspective.*” The consumer can browse multiple merchant websites and make purchase selections on each website. (See Specification, Pages 7-9). The consumer can complete all of the purchases, including products chosen from other merchant’s websites, through the last website that is viewed. (See Specification, Page 10, lines 2-20). In contrast, a user acting according to the method of the Kraemer patent makes purchases using a toolbar, which is inserted into source code of every webpage that is viewed by the user. Therefore, it is respectfully submitted that the Kraemer patent does not disclose or suggest “*paying for the first and second goods through the second website with one transaction from a consumer perspective,*” as recited in claim 9.

In view of the above remarks, it is respectfully submitted that claims 10-13, which depend from and include the limitations of claim 9, are allowable at least for the reasons stated above.

#### **IV. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

The Examiner has rejected claims 1, 2, 5-8, 17 and 18 under 35 U.S.C. § 103(a) as unpatentable over the website [www.netgrocer.com](http://www.netgrocer.com) as disclosed in the article, "Netgrocer Unveils New Business Model and Launches New Site" (Feb. 10, 1999, Press Release) in view of official notice regarding e-commerce websites and in further view of the website [www.receiptcity.com](http://www.receiptcity.com) as taught by the articles "Tech Trends" and "ReceiptCity Teams with Verifone to Bring Retailers Receipt-based e-Services." (See 5/24/04 Office Action, page 6).

As noted above, the publications "Tech Trends" and "ReceiptCity Teams with Verifone to Bring Retailers Receipt-based e-Services" are sworn behind with the enclosed declaration executed in accordance with 37 CFR 1.131. As stated in MPEP 715.02, "applicant may overcome a 35 U.S.C. 103 rejection based on a combination of references by showing completion of the invention by applicant prior to the effective date of any of the references; applicant need not antedate the reference with the earliest filing date." Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 1, 2, 5-8, 17 and 18, as they are in condition for allowance.

The Office Action Summary stated that claims 14 and 15 were included in the pending claims that were reviewed by the Examiner and subsequently rejected. (See 5/24/04 Office Action, Office Action Summary). However, the Detailed Action portion does not contain any statements regarding the bases for the rejection of those claims. In light of the fact that claims 14 and 15 depend from and include the limitations of claims 1 and 8, respectively, it is respectfully submitted that these claims are allowable at least for the reasons stated above.

V. CONCLUSION

In light of the foregoing, Applicant respectfully submits that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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